

15750 U.S. PTO

ATTORNEY DOCKET NO.: 040808-5057-02

031088 U.S. PTO
10/718557



112403

PRIOR APPLICATION NO.: 09/004,339

1-WA/2087916.2

3. Amendments

- ☐ Cancel in this application original claims _____ in the enclosed copy of prior application before calculating the filing fee.
- ☐ A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)
- ☐ Applicant intends- to file additional papers in this case shortly. Should the Examiner take this case for action before receiving such papers, it is respectfully requested that the Examiner contact the attorneys for applicant.

4. Oath or Declaration

- ☐ A newly executed (original or copy) oath or declaration is enclosed.
- ☒ A copy of an oath or declaration from a prior application is enclosed under 37 C.F.R. § 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ A signed statement deleting inventor(s) named in the prior application is enclosed.

5. Relate Back - 35 U.S.C. § 120

- ☒ Amend the specification by inserting before the first line the sentence:

“This is a ☒ continuation ☐ divisional ☐ continuation-in-part of copending application(s)

☒ Application No. 09/004,339 filed on January 8, 1998, which claims priority to U.S. Provisional Application No. 60/053,426, filed July 22, 1997.

☐ International Application No. _____ filed on _____ and which designated the U.S.”

6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT international applications under 35 U.S.C. § 365(a) designating at least one country other than the U.S.

☐ Priority of the following foreign application(s) is/are claimed:

Country	Application No.	Filed
Japan	09-001865	January 9, 1997
Japan	09-82570	April 1, 1997

Certified copy(ies): ☐ is/are attached.

☐ will follow.

☒ was/were filed in prior U.S. Application No. 09/004,339 on June 4, 1998.

7. Assignment

☒ The prior application is assigned of record
FROM the inventor: Osamu IKEDA, Masahiro JUEN, Masaharu ITO

TO: **Nikon Corporation**

recorded 9222, at Reel/Frame 0568.

☐ The prior application is not assigned.

8. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$770.00 Design \$340.00
Total Claims (37 C.F.R. § 1.16(c))	53- 20 =	33	\$ 18.00 each =	\$ 594.00
Independent Claims (37 C.F.R. § 1.16(b))	7 - 3 =	4	\$ 86.00 each =	\$ 344.00
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$ 290.00	\$ 0.00
SUB-TOTAL =				\$ 1708.00
Reduction by ½ for filing by a small entity				\$ 0.00
TOTAL FILING FEE =				\$ 1708.00

9. Fee Payment

☐ Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.**

This application is being filed under the provisions of 37 C.F.R. § 1.53(f).
Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.

☐ Enclosed.

☒ The Commissioner is hereby authorized to charge **\$1708.00** for the \$770.00 application filing fee and \$938.00 additional claims fee to Deposit Account No. 50-0310.

☐ The fee for extra claims under 37 C.F.R. § 1.16(d) is not being paid at this time and no authorization is given to charge our deposit account for this fee.

10. Small Entity Status is claimed and

☐ a statement claiming small entity status is enclosed, or

☐ a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

11. ☒ The power of attorney in the prior application is to at least one of the registered practitioners of Morgan, Lewis & Bockius LLP included in the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all correspondence shall be addressed to that Customer Number.

Please address all correspondence to Morgan, Lewis & Bockius LLP at
Customer Number: 009629

12. ☐ Recognize as associate attorney _____.
(name, address, and registration no.)

13. ☒ **PETITION FOR EXTENSION OF TIME.** If any extension of time is necessary for the filing of this application, including any extension in the prior application, application no. 09/004,339 filed on January 8, 1998, for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.

14. ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

15. Additional papers enclosed:

- ☒ Information Disclosure Statement
- ☒ Form PTO-1449 and references cited thereon
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: Mary Jane Boswell
Mary Jane Boswell
Reg. No. 33,652

Date: November 24, 2003

CUSTOMER NO. 009629

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